IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 15919 of 1995

Between:

Pabolu Ramarao S/o.Rajarao, R/o.Challapalli Village,

Uppalaguptam Mandal, E.G.District.

..... PETITIONER

AND

1 District Collector (P & R Wing), Kakinada, East Godavari.
2 Revenue Divisional Officer, Amalapuram, E.G.Dist
3 The Dy. Executive Engineer C.E.R.P.(P.R.) Division Amalapuram, E.G.Dist
4 The Executive Engineer C.E.R.P.(PR) Division Amalapuram, E.G.Dist
5 Mandal Revenue Officer, Uppalaguptam E.G.Dist

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, declaring the action of the respondents in taking away the land measuring 0.15 cents in S.No.695/1 in Challapalli Village, Uppalaguptam Revenue Mandal, E.G. District and adjacent trees viz. 6 coconut trees, 1 battai tree, 2 Palmyrah trees, 2 pampar panasa, 1 neem tree and 1 Togara tree as illegal, arbitrary and without jurisdiction and for consequential direction, directing the respondents to award compensation of Rs.50,000/- to the petitioner together with damages @ 18 percent per annum from 29/4/1992.

Counsel for the Petitioner: MR.M.LAKSHMANA SARMA

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT.

The Court made the following:

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.NO.15919 OF 1995

ORAL ORDER:

Heard both sides.

2. The petitioner assails the action of the respondents in taking away his land admeasuring Ac.0-15 cents in S.No.695/1 in Challapalli village, Uppalagudem Mandal, East Godavari District, and the adjacent trees, as illegal and arbitrary.

3. A counter-affidavit has been filed by the respondents stating *inter alia* that during the year 1990, there was a cyclone, because of which the road was damaged; that with the help of the World Bank aid, the road was brought to World Bank Standards and that no

compensation was claimed by the affected land owners. It is further stated that during the recent past, the land owners, adjacent to the road, were using the road for growing trees without proper authorization from the Zilla Parishad. The land in question was taken by the respondents with the consent of the villagers. Hence, denial of compensation to the petitioner is justifiable.

4. From the above, it could be seen that laying of new road in the place of old road, which was damaged completely, consequent upon the cyclone in the year 1990, was taken up by the respondents with the consent of the villagers and it would only be for the benefit of the general public. The very fact that no objections were raised or no compensation was claimed by any of the villagers at any point of time in all these years i.e., between 1990 and 1995, itself shows that the formation of road, as stated by the respondents, was with the consent of all the villagers and for the benefit of the general public.

5. For the foregoing reasons, I do not find any justifiable grounds to grant any relief as prayed for by the petitioner.

6. The writ petition fails and is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

D.S.R.VARMA, J

04TH NOVEMBER 2004

KRK

To:

1.District Collector (P & R Wing), Kakinada, East Godavari District.
2.The Revenue Divisional Officer, Amalapuram, East Godavari Distict.
3.The Deputy Executive Engineer C.E.R.P.(P.R.) Division, Amalapuram, East Goavari District.
4.The Executive Engineer C.E.R.P.(PR) Division, Amalapuram, East Godavari District.
5.The Mandal Revenue Officer, Uppalaguptam, East Godavari District.

6.Two CCs to the Government Pleader for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT).

7.Two CD copies.